

2:09-cv-1300-GMN-GWF

INCORP SERVICES, INC.

V.

NEVADA CORPORATE SERVICES,
INC.

PLAINTIFF HEARING EXHIBIT RE:

MOTION FOR DEFAULT JUDGMENT (82)
AND MOTION FOR SANCTIONS (84)

JUNE 9, 2011, 1:30 PM

<input checked="checked" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
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COUNSEL/PARTIES OF RECORD	
JUN - 9 2011	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]

Sent: Tuesday, June 29, 2010 2:13 PM

To: JZS Joel Z. Schwarz

Subject: Contact Information

Joel,

It was nice speaking with you today, and congratulations again on the baby. My contact information is below. As I discussed with you, I would appreciate any information regarding the Incorp. case, in order to advise NCS of upcoming events.

We will talk again soon. Thanks.

Regards,

Joslyn LaMadrid
6600 W. Charleston, Suite 117
Las Vegas, NV 89146
(702)232-4786-cell
(702)658-9388-fax

jjlamadrid@gmail.com

6/9/2011

JZS Joel Z. Schwarz

From: JZS Joel Z. Schwarz
Sent: Tuesday, June 29, 2010 2:39 PM
To: 'Joslyn LaMadrid'
Cc: Anna Dang
Subject: RE: Contact Information
Follow Up Flag: Follow up
Flag Status: Yellow
Attachments: 955442.pdf; 962566.pdf; 946891.pdf; 946892.pdf; 946899.pdf; 946890.pdf

Joslyn,

Attached please find the Court's recent Order compelling the production of certain documents, the Notices for upcoming depositions, and the Motion to Withdraw filed by Chris Reade's office.

From: Joslyn LaMadrid [mailto:jjlamadrid@gmail.com]
Sent: Tuesday, June 29, 2010 2:13 PM
To: JZS Joel Z. Schwarz
Subject: Contact Information

Joel,

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Las Vegas, NV 89146
(702)232-4786-cell
(702)658-9388-fax

jjlamadrid@gmail.com

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Thursday, September 09, 2010 11:28 AM
To: JZS Joel Z. Schwarz
Subject: Incorp

Joel,

I have been unable to retrieve the file from the former attorney's and was wondering if you could scan and send me the pleadings in the case, and any discovery requests and responses. That would really help me, and then I can be able to have meaningful conversations with you regarding this case. Thanks so much!

By the way, are you a daddy yet?

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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6/9/2011

Gordon Silver

Attorneys and Counselors at Law

3960 Howard Hughes Parkway, Ninth Floor, Las Vegas, Nevada 89169.5978
T: 702.796.5555 • F: 702.369.2666 • www.gordonsilver.com

Joel Z. Schwarz, Esq.
Email: jschwarz@gordonsilver.com

September 9, 2010

VIA HAND DELIVERY

Joslyn LaMadrid, Esq.
Attorney at Law
6600 W. Charleston, Suite 117
Las Vegas, NV 89147

Re: Incorp Services, Inc. v. Nevada Corporate Services, Inc.
Case No.: 09-cv-1300-RCJ-GWF
Our File No.: 102162-001.06

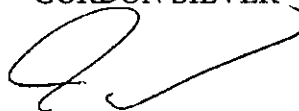
Dear Joslyn:

Enclosed, please find a disk containing the pleadings and discovery file in the above-referenced matter.

Should you have any questions, please feel free to contact me.

Sincerely,

GORDON SILVER



JOEL Z. SCHWARZ

JZS/ad

Enclosure

JZS Joel Z. Schwarz

From: jjlamadrid@gmail.com
Sent: Thursday, September 09, 2010 5:59 PM
To: JZS Joel Z. Schwarz
Subject: Re: Incorp

That is my oldest daughter's birthday. Thank you.

Sent from my Verizon Wireless BlackBerry

From: "JZS Joel Z. Schwarz" <jschwarz@gordonsilver.com>
Date: Thu, 9 Sep 2010 14:30:28 -0700
To: Joslyn LaMadrid <jjlamadrid@gmail.com>
Cc: Anna Dang <ADang@GordonSilver.com>
Subject: RE: Incorp

I am sending over a disk.

Baby not due until November 5.

From: Joslyn LaMadrid [mailto:jjlamadrid@gmail.com]
Sent: Thursday, September 09, 2010 11:28 AM
To: JZS Joel Z. Schwarz
Subject: Incorp

Joel,

I have been unable to retrieve the file from the former attorney's and was wondering if you could scan and send me the pleadings in the case, and any discovery requests and responses. That would really help me, and then I can be able to have meaningful conversations with you regarding this case. Thanks so much!

By the way, are you a daddy yet?

--

Regards,

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Gordon Silver Standard Disclaimer

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Gordon Silver

Attorneys and Counselors at Law

September 16, 2010

Joslyn LaMadrid, Esq.
6600 West Charleston
Suite 117
Las Vegas, Nevada 89147
jjlamadrid@gmail.com

VIA FIRST CLASS MAIL AND E-MAIL

Re: Incorp v. NCS, Case No. 2:09-cv-01300-GMN-GWF
Our File Number: 102162-001.06

Dear Joslyn

Please find enclosed a draft of Plaintiff Incorp Services Inc. ("Plaintiff")'s Motion to Reopen Discovery, Motion to Compel Production of Documents and Further Responses to Interrogatories, and Motion for Sanctions. By this document, Plaintiff seeks to reopen discovery in the above-referenced case, asks the Court to again compel Defendants Nevada Corporate Services, Inc. and Richard Fritzler (collectively, "Defendants") to provide sufficient responses to Plaintiff's discovery requests, requests Plaintiff's attorneys' fees, and leaves the door open for the Court to impose any other sanctions as it sees fit. We intend to file this motion and its supporting papers by the end of this week unless Defendants first agree to provide the documentation Plaintiff requests, to put Plaintiff's previously noticed depositions back on schedule, and to reimburse Plaintiff for its attorneys' fees incurred in the process. If we can secure such an agreement, we will redraft the enclosed motion as a joint motion to reopen discovery and modify the scheduling order.

I understand that you have experienced difficulty gathering the case file and other information necessary to bring yourself up to speed on the case and wish that we could give you as much time as you need to do so. However, Plaintiff's discovery dispute with your clients has continued for over ten months and the fact that the discovery period has already expired requires us to file this motion without waiting any longer.

3960 Howard Hughes Parkway, Ninth Floor
Las Vegas, Nevada 89169.5978

102162-001.06/1029267.doc

T: 702.796.5555 • F: 702.369.2666 • www.gordonsilver.com

Gordon Silver

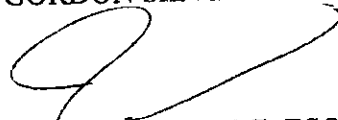
Attorneys and Counselors at Law

September 16, 2010
Page 2

Please contact me at your earliest convenience to discuss the issues stated in Plaintiff's draft motion. If Defendants have no intention of complying with Plaintiff's requests, please let me know as soon as possible so we can proceed with filing.

Very truly yours,

GORDON SILVER

A handwritten signature in black ink, appearing to read 'J. Schwarz', written over the printed name.

JOEL Z. SCHWARZ, ESQ.

JZS/vlt

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Tel: (702) 796-5555
6 Fax: (702) 369-2666
7 Attorneys for Plaintiff Incorp Services, Inc.

8
9 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
10

11
12 INCORP SERVICES, INC., a Nevada
corporation,

13
14 Plaintiff,

15 vs.

16 NEVADA CORPORATE SERVICES, INC.,
a Nevada corporation, RICHARD
17 FRITZLER, an individual, and DOES 1-10,
18 inclusive,

19 Defendant.
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Case No. 2:09-cv-01300-RCJ-GWF

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION TO REOPEN
DISCOVERY, MOTION TO COMPEL
PRODUCTION OF DOCUMENTS AND
FURTHER RESPONSES TO
INTERROGATORIES, AND MOTION
FOR SANCTIONS; MEMORANDUM
OF POINTS AND AUTHORITIES**

1 TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:

2 PLEASE TAKE NOTICE that Plaintiff Incorp Services Inc. will move the Court for an
 3 order (1) reopening discovery, (2) modifying the dates listed in the current scheduling order
 4 pursuant to Local Rule 26-4, (3) compelling further responses from Defendant Nevada Corporate
 5 Services, Inc. to Plaintiff's written discovery requests pursuant to the Court's Order of June 17,
 6 2010 and Federal Rule of Civil Procedure 37, and (4) sanctioning Defendants pursuant to Federal
 7 Rules of Civil Procedure 16 and 37, Local Rule 4-1 and the Court's inherent sanctioning power.
 8 Plaintiff's motion to reopen discovery and modify the scheduling order is made on the ground
 9 that, as a result of Defendants' conduct, Plaintiff was unable to complete discovery prior to the
 10 discovery cut-off date. Plaintiff's motion to compel is made on the grounds that the requested
 11 discovery is relevant to the subject matter of the action and that Defendants' disobedience of the
 12 Court's discovery order is willful and without substantial justification. Plaintiff's motion for
 13 sanctions is made on the grounds that Defendants' conduct has caused Plaintiff to incur
 14 unnecessary attorney's fees and costs and has prejudiced Plaintiff's investigation of its claims.

15 This Motion is brought based on this notice, the memorandum of points and authorities set
 16 forth below, the declaration of Joel Z. Schwarz, all pleadings on file in this case, and such further
 17 evidence and arguments that may be presented prior to or at the hearing on this Motion.

18
 19 DATED: September __, 2010

GORDON SILVER

20
 21 By: _____

22 JOEL Z. SCHWARZ
 Nevada Bar No. 9181
 23 BRADLEY J. RICHARDSON
 Nevada Bar No. 1159
 24 3960 Howard Hughes Pkwy., 9th Floor
 Las Vegas, Nevada 89169
 25 Tel: (702) 796-5555

26 Attorneys for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Incorp Services, Inc. ("Plaintiff") and Defendant Nevada Corporate Services, Inc. ("NCS") compete in providing registered agent services to business entities. Defendant Richard Fritzler ("Fritzler") is the President of NCS (collectively, "Defendants"). On or around May 29, 2009, Defendants drafted and sent defamatory letters to Plaintiff's clients, which falsely stated that Plaintiff "may be discontinuing" its registered agent services, leaving its clients "vulnerable and at risk." (Complaint ¶¶ 3, 17.) The letters included several other false insinuations that Plaintiff's clients could be victims of Plaintiff's "lack of service and professionalism." (*Id.* at ¶ 20.) The harm to Plaintiff from these false statements was immediate and significant.

Throughout the case, Defendants have defied the Court's orders, frustrated Plaintiff's discovery efforts, and otherwise engaged in dilatory conduct. Defendants' behavior has prolonged discovery disputes over a ten-month period and prevented Plaintiff from completing discovery and conducting depositions prior to the discovery cut-off date. Defendants failed to comply with the Court's June 17, 2010 Order (Doc. No. 64) compelling NCS to supplement its responses to certain of Plaintiff's interrogatories and requests for production of documents. Defendants also failed to comply with the Court's July 15, 2010 Order (Doc. No. 67) requiring Defendants to advise the Court whether they would retain new counsel. The fact that Defendants were unrepresented for over a month prevented Plaintiff from obtaining the supplemental discovery responses, as ordered, and from deposing Defendants and their employees before the August 13, 2010 discovery cut-off date.

Plaintiff has made every effort to extend the requisite professional courtesy to Defendants' new counsel as she familiarizes herself with the case. However, the expired discovery period and fast-approaching deadlines for dispositive motions and filing of the parties' joint pre-trial order require Plaintiff to seek immediate relief from the Court by requesting: (1) that the Court reopen discovery; (2) that the Court modify the dates listed in its June 17, 2010 scheduling order as requested herein; (3) that the Court compel further supplemental responses from NCS to Plaintiff's interrogatories and requests for production of documents as requested herein; and (4)

1 that the Court sanction Defendants according to the request for attorneys' fees and other relief as
2 stated herein.

3 II. BACKGROUND

4 A. NCS's Insufficient Discovery Responses

5 Having visited this same issue in the past, the Court is familiar with the procedural history
6 surrounding Plaintiff's written discovery requests to NCS. By way of summary:

- 7 1) On December 2, 2009, Plaintiff served (by U.S. Mail) its first set of requests for
8 admission, requests for production of documents and interrogatories on NCS. (Declaration
9 of Joel Z. Schwarz in Support of Plaintiff's Motion to Compel ("Schwarz Decl.") ¶¶2-4.)
- 10 2) NCS objected and responded to the interrogatories and requests for admission on
11 December 23, 2009, but failed to serve timely responses to the requests for production. (*Id.*
12 ¶¶5-6.) In addition, NCS did not verify its interrogatory responses. (*Id.* ¶5.)
- 13 3) On January 29, 2010, Plaintiff filed its first Motion to Compel further responses and
14 documents by NCS, (Doc. No. 28). After communicating with Defendants about an exhibit
15 to the requests that Defendants claimed they did not receive, Plaintiff withdrew the motion
16 on February 4, 2010. (*See* Doc. Nos. 32 & 33.)
- 17 4) After Plaintiff's attempts to informally resolve the issue with Defendants again failed,
18 Plaintiff filed its second Motion to Compel on May 24, 2010. (Doc. No. 56.) A hearing
19 before the Magistrate Judge was held on June 15, 2010.
- 20 5) On June 17, 2010, the Court issued its order, compelling NCS to serve supplemental
21 responses to Plaintiff's Interrogatories Nos. 4 and 5 and Plaintiff's Requests for Production
22 of Documents Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10 and 11. (Doc. No. 64 [the "June 17 Order"].)
23 The Court ordered NCS to produce certain business records and financial documents by
24 June 25, 2010 and the remainder of the supplemental responses and documents by July 2,
25 2010. (*Id.* at 12, ¶ 1.)
- 26 6) Also on June 17, the Court revised the scheduling order, extending the discovery cut-off
27 date to August 13, 2010, the deadline for filing dispositive motions to September 13, 2010,
28

1 and the deadline for filing the joint pretrial order to October 13, 2010. (Doc. No. 65 [the
2 "June 17 Scheduling Order"].)

3 Despite the Court's Order to NCS to produce its articles of incorporation, its fictitious
4 name filings, business licenses, a current list of its officers and directors, tax returns and annual
5 financial statements by June 25, 2010 (June 17 Order at 9-10, 12 ¶ 1), NCS failed to produce any
6 such documents by that date. (Schwarz Decl. ¶ 8 .) On July 2, 2010, NCS did provide Plaintiff
7 with its Third Supplement to Its Response to Plaintiff's First Set of Request for Production of
8 Documents ("the Supplement"). (*Id.* ¶ 10.) Attached to the Supplement were (1) the first page of
9 NCS's federal income tax returns for the years 2006 through 2009 and (2) a fifteen-page list of
10 391 names and addresses ("the Mailing List"). (*Id.* ¶ 10, Ex. A.) The Supplement identifies the
11 Mailing List as a "Mailing list of those that were sent the letter in question." (*See* Section IV.B.2,
12 *infra.*) All of the addresses on the Mailing List are located in the State of Georgia. (Schwarz Decl.
13 ¶ 10, Ex. A.)

14 NCS's incomplete responses in the Supplement fall short of what the Court required in the
15 June 17 Order and thereby remain inadequate. In addition, NCS has not supplemented its
16 responses to Plaintiff's Interrogatories Nos. 4 and 5 as required by the Court. (*Id.* ¶ 9.) Finally, to
17 date, Defendants have not produced any articles of incorporation, fictitious name filings, business
18 licenses, names of its officers and directors, complete tax returns or annual financial statements.
19 (*Id.*, ¶ 8.)

20 **B. Defendants' Evasion of Plaintiff's Depositions**

21 On June 8, 2010, Plaintiff properly noticed and subpoenaed depositions of Defendants and
22 their employees, namely Fritzler, the Federal Rule of Civil Procedure 30(b)(6) Representative for
23 NCS, Kayla Korbalee and Michelle Perry. (*Id.* ¶¶ 11-14 .) The depositions were scheduled to
24 take place on July 7 and 8, 2010 at the Las Vegas offices of Plaintiff's counsel. (*Id.*) At the
25 request of Defendants, Plaintiff postponed these depositions to August 12 and 13, 2010. (*Id.* ¶¶
26 19-21 .)

1 In the meantime, Plaintiff produced its own employees for deposition without problem.
 2 On June 24, 2010, Defendants deposed Karolyn Knight, Tracy Gerber and Tennie Sedlacek. (*Id.*
 3 ¶¶ 15–18.)

4 On June 25, 2010, only one day after Defendants completed their depositions of Plaintiff's
 5 employees, but before Plaintiff had conducted its own depositions, the law firm of Reade and
 6 Associates moved to withdraw as counsel for Defendants. (Doc. No. 66 at 3.) The Court granted
 7 the motion on July 15, 2010. (Doc No. 67.) The Court gave Defendants until August 3, 2010 to
 8 advise the Court whether they intended to retain new counsel, noting that NCS, as a corporate
 9 entity, could not proceed in the litigation without representation. (*Id.*) Once again, Defendants
 10 failed to respond by the Court's deadline, causing the Court to issue an Order to Show Cause why
 11 sanctions should not be imposed for their failure. (Doc. No. 68.)

12 Plaintiffs were unable to take the depositions scheduled for August 12 and 13 because, at
 13 the time, Defendants were not represented by counsel. (Schwarz Decl. ¶ 22.)

14 On August 18, 2010, five days after the discovery cut-off date, Defendants retained new
 15 counsel. (Doc. No. 70.)

16 III. CERTIFICATION OF EFFORTS TO MEET AND CONFER

17 Plaintiff's attorneys have made multiple attempts to meet and confer with Defendants' new
 18 counsel regarding Defendants' deficient discovery responses and the scheduling of Plaintiff's
 19 depositions. (Schwarz Decl. ¶¶ 23–26.) On August 19, 2010, Plaintiff's counsel called
 20 Defendants' counsel to engage in a telephonic meet-and-confer. (*Id.* ¶ 23.) Defendants' counsel
 21 represented that she had not yet received the case file from Reade and Associates and required
 22 additional time to bring herself up to speed on the case history. (*Id.*) Plaintiff's counsel agreed to
 23 allow her some time for this purpose. (*Id.*) In addition, Plaintiff's counsel sent Defendants'
 24 counsel copies of pleadings and discovery conducted to date. (*Id.* ¶ 25.)

25 On September 16, 2010, Plaintiff's counsel sent Defense counsel a meet-and-confer letter
 26 detailing more fully Plaintiff's concerns about Defendant's discovery responses, the scheduling of
 27 Plaintiff's depositions and the close of discovery. (*Id.* ¶ 26, Ex. B.) To date, Plaintiff has not
 28 received a response to this letter. (*Id.*)

1 **IV. ARGUMENT**

2 **A. The Court should reopen discovery and extend the deadlines in the June 17**
 3 **Scheduling Order.**

4 Plaintiff makes the instant request to reopen discovery and extend the dates in the July 17
 5 Scheduling Order pursuant to Local Rule 26-4.

6 Plaintiff is aware that Local Rule 6-1(b) requires all requests for extension of any Court
 7 deadline to be made prior to that deadline "unless the moving party, attorney, or other person
 8 demonstrates that the failure to act was the result of excusable neglect." Here, Plaintiff's failure to
 9 move the Court for an extension of the August 13, 2010 discovery cut-off date prior to August 13
 10 is excusable given that Defendants were unrepresented and unresponsive in the weeks before and
 11 after the discovery cut-off date.

12 When Reade and Associates withdrew as Defendants' counsel, the case went into litigation
 13 limbo. Plaintiff expected Defendants to quickly obtain new representation. Defendants' failure to
 14 do so created a predicament for Plaintiff. It appeared that Defendants might default—and if they
 15 did, it was in Plaintiff's interest to avoid incurring unnecessary legal fees for a motion to reopen
 16 discovery. *Cf. Cranford v. Underhill*, No. 03:06-CV-00111-LRH-GWF, 2007 WL 3256880 at *1
 17 (D. Nev., Nov. 2, 2007) (holding that earlier likelihood of settlement and party's desire to save
 18 unnecessary costs constituted "excusable neglect" under Local Rule 6-1(b) for request to reopen
 19 discovery made after the cut-off date). Similarly, succeeding on such a motion before Defendants
 20 obtained new counsel would have been of no practical benefit to Plaintiff because Fritzler, *in pro*
 21 *per*, refused to communicate with Plaintiff and, as the Court noted in its Order of July 15, 2010,
 22 NCS was powerless to participate in the proceedings without counsel. (Doc. No. 67 [citing *United*
 23 *States v. High Country Broad. Co., Inc.*, F.3d 1244, 1245 (9th Cir. 1993)].) For these reasons, the
 24 Court should excuse Plaintiff's failure to make the instant request prior to August 13, 2010 and
 25 deem it timely.

26 **1. Statement of discovery completed**

27 As of the date of this motion, the parties have completed the following discovery:
 28

- a) Plaintiff's First Set of Requests for Production of Documents to NCS, served November 23, 2009;
- b) Plaintiff's First Set of Interrogatories to NCS, served November 23, 2009;
- c) Plaintiff's First Set of Requests for Admission to NCS, served November 23, 2009;
- d) NCS's Responses to Plaintiff's First Set of Requests for Admission to NCS, served December 23, 2009;
- e) NCS's Responses to Plaintiff's First Set of Interrogatories, served December 23, 2009;
- f) NCS's First Set of Interrogatories to Plaintiff, served January 7, 2010;
- g) NCS's First Set of Requests for Admission to Plaintiff, served January 7, 2010;
- h) NCS's First Set of Requests for Production of Documents to Plaintiff, served January 7, 2010;
- i) NCS's Responses to Plaintiff's First Set of Requests for Production of Documents to NCS, served January 11, 2010;
- j) Plaintiff's Responses to NCS's First Set of Interrogatories to Plaintiff, served February 9, 2010;
- k) Plaintiff's Responses to NCS's First Set of Requests for Admission to Plaintiff, served February 9, 2010;
- l) Plaintiff's Responses to NCS's First Set of Requests for Production of Documents to Plaintiff, served February 9, 2010;
- m) NCS's First Supplement to Responses to Plaintiff's First Set of Requests for Admission, served March 10, 2010;
- n) NCS's First Supplement to Responses to Plaintiff's First Set of Interrogatories, served March 10, 2010;
- o) NCS's First Supplement to Responses to Plaintiff's First Set of Requests for Production of Documents, served March 10, 2010;
- p) Plaintiff's First Supplement to Responses to NCS's First Set of Requests for Production of Documents, served April 30, 2010;

- q) NCS's Second Supplement to Responses to Plaintiff's First Set of Requests for Production of Documents, served June 2, 2010;
- r) Defendants' deposition of Karolyn Knight on June 24, 2010;
- s) Defendants' deposition of Tracy Gerber on June 24, 2010;
- t) Defendants' deposition of Tennie Sedlacek on June 24, 2010; and
- u) NCS's Third Supplement to Responses to Plaintiff's First Set of Requests for Production of Documents, served July 2, 2010.

2. **Description of discovery that remains to be completed**

As of the date of this motion, the following discovery remains to be completed:

- a) Plaintiff's deposition of Fritzler;
- b) Plaintiff's deposition of the Federal Rule of Civil Procedure 30(b)(6) representative for NCS;
- c) Plaintiff's deposition of NCS employee Michelle Perry;
- d) Plaintiff's deposition of NCS employee Kayla Korbalee;
- e) NCS's Second Supplement to Responses to Plaintiff's First Set of Interrogatories, as required by the June 17 Order;
- f) Further supplement by NCS to Responses to Plaintiff's First Set of Requests for Production of Documents, as required by the June 17 Order; and
- g) Any further discovery deemed necessary by Plaintiff as a result of information gathered through the discovery described above in subsections a) through f).

3. **Reasons why discovery remaining was not completed within the time limits set by the June 17 Scheduling Order**

Good cause exists for reopening discovery. Fed. R. Civ. P. 16(b). A court's evaluation of good cause to extend the deadlines in a scheduling order "primarily considers the diligence of the party seeking the amendment." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). The Court may modify the schedule "if it cannot reasonably be met despite the diligence of the party seeking extension." *Id.* (quoting Fed. R. Civ. P. 16 advisory committee's notes (1983 amendment)).

1 Plaintiff's efforts to obtain NCS's supplemental responses and to depose the necessary
 2 persons prior to the August 13 discovery cut-off date have been consistent and diligent. As
 3 outlined above, Defendants' refusal to comply with various Court orders regarding discovery and
 4 counsel prevented Plaintiff from completing the remaining discovery before the August 13, 2010
 5 cut-off date. Plaintiff should not be punished for Defendant's evasive and obstructive behavior.

6 Accordingly, Plaintiff requests that the Court reopen discovery without limitation for an
 7 additional three (3) months. In the alternative, Plaintiff requests that the Court reopen discovery
 8 for a reasonable period of time for the limited purpose of permitting Plaintiff to (a) obtain NCS's
 9 complete supplemental responses as compelled by the Court in its June 17 Order and (b) to depose
 10 Defendants and their agents and employees previously noticed and subpoenaed by Plaintiff.

11 4. Proposed schedule

12 Plaintiff proposes the following changes to the June 17 Scheduling Order:

- 13 a) That the last date to complete discovery be extended to December 17, 2010;
- 14 b) That the last date to file dispositive motions be extended to January 18, 2010; and
- 15 c) That the last date to file the joint pretrial order be extended to February 17, 2010, with
 16 the provision that, in the event dispositive motions are filed, the date for filing the joint
 17 pretrial order shall be suspended until 30 days after a decision of the dispositive
 18 motions.

19 **B. The Court should compel NCS to supplement its discovery responses and produce** 20 **further documents pursuant to the June 17th Order**

21 A party seeking discovery may move for an order compelling an answer if a party fails to
 22 answer an interrogatory submitted under Rule 33. Fed. R. Civ. Proc. 37(a)(3)(B)(iii). Evasive or
 23 incomplete responses must be treated as a failure to answer or respond. Fed. R. Civ. Proc.
 24 37(a)(4). The party who resists discovery has the burden to show that discovery should not be
 25 allowed, and has the burden of clarifying, explaining, and supporting its objections. *Directv, Inc.*
 26 *v. Trone*, 209 F.R.D. 455, 458 (C.D. Cal. 2002), citing *Blankenship v. Hearst Corp.*, 519 F.2d 418,
 27 429 (9th Cir. 1975).

1 Here, Plaintiff has already prevailed on a motion to compel, but NCS has not complied
 2 with the Court's June 17th Order. Plaintiff requires the supplemental responses and documents
 3 addressed in the June 17th Order in order to proceed with the case and take meaningful
 4 depositions.

5 1. **NCS has not supplemented its responses to Interrogatories Nos. 4 and 5 as**
 6 **required by the June 17 Order.**

7 All of Plaintiff's claims relate to the defamatory letters sent by Defendants to Plaintiff's
 8 clients. In its interrogatories, Plaintiff asked Defendant to describe with specificity the creation,
 9 drafting, sending and receipt of the letters.

10 **Interrogatory No: 4: IDENTIFY every intended recipient of THE LETTERS.**

11 **Response to Interrogatory No: 4:** Answering Defendant objects to the Interrogatory
 12 insofar as it asks for Answering Defendant to identify multiple letters but has only identified a
 13 single letter as attached hereto as Exhibit "A". Therefore Answering Defendant is limiting its
 14 response to the letter which has been attached as Exhibit "A". Furthermore Answering Defendant
 15 is uncertain of the meaning of the term "intended" beyond to whom the letter is addressed.
 16 Without waiving the foregoing objections, Answering Defendant responds Klaus Egert.

17 **Interrogatory No: 5:** Explain in detail how the list of intended recipients of THE
 18 LETTERS was created.

19 **Response to Interrogatory No: 5:** Answering Defendant objects to the Interrogatory
 20 insofar as it asks for Answering Defendant to identify multiple letters but has only identified a
 21 single letter as attached hereto as Exhibit "A". Furthermore Answering Defendant is uncertain of
 22 the meaning of the term "intended" beyond to whom the letter is addressed. From a large
 23 database of businesses, a small random sampling was exported to a Microsoft Excel file.
 24 Answering Defendant considered several factors, including but not limited to the location of the
 25 company and the industry in which that [sic] the company was conducting business.

26 In the June 17 Order, the Court compelled NCS to supplement its responses to these
 27 interrogatories. As to Interrogatory No. 4, the Court said:

To the extent that NCS knows or can determine from its own records that Incorp was the registered agent for the recipients of the advertisement letters, then it may and should respond to Interrogatory No. 4 by providing a list of those recipients. If NCS is unable to determine whether the recipients were represented by Incorp at the time the letters were sent, however, then it should identify all individuals or entities to whom it sent letters substantially similar to the May 28, 2009 letter.

(June 17 Order at 7.) As to Interrogatory No. 5, the Court agreed that "Defendant's description of the Microsoft Excel file is sketchy" and ordered NCS to supplement its answer "by providing more detail concerning the file or list of recipients or intended recipients and the manner in which the file or list was created, including the 'several factors' Defendant considered in creating the file or list." (*Id.* at 6-7.)

The Court gave NCS until July 2, 2010 to supplement its responses to these interrogatories. To date, NCS has not supplemented its responses. While NCS did provide the Mailing List of Georgia addresses, that list was produced with NCS's third supplement to its responses to Plaintiff's request for production of documents. Without further information from NCS, Plaintiff has no way of knowing if the data on the Mailing List is also responsive to Interrogatory No. 4 and, if so, whether it is a complete response. From the face of the document—*i.e.* a limited list of Georgia addresses—it is not credible that this document contains the complete list or recipients of the letters at issue. Regarding Interrogatory No. 5, NCS has not provided any further detail regarding the creation of its file or list of recipients.

2. NCS's supplemental document production does not comply with the June 17 Order.

In the June 17 Order, the Court required NCS to produce articles of incorporation, its fictitious name filings, business licenses, a current list of its officers and directors, tax returns and annual financial statements by June 25, 2010 (June 17 Order at 9-10, 12 ¶ 1). Not only did NCS fail to produce any such documents by June 25, but to date NCS has not produced them, with the exception of the first page of each of NCS's federal income tax returns for the years 2006 through 2009.

1 Indeed, the only thing of substance that NCS produced in the Supplement is the fifteen-
 2 page Mailing List of Georgia addresses. Yet this list raises more questions than it answers, most
 3 significantly whether it is an accurate list of recipients.

4 Plaintiff's request for production of documents regarding the letters is as follows:

5 **Request for Production No. 8: ALL DOCUMENTS REGARDING** or otherwise
 6 supporting THE LETTERS.

7 In January 2010, NCS initially responded:

8 **Response to Request for Production No. 8:** Objection, Answering Defendant is unsure to
 9 what "LETTERS" are being referred to in this request.

10 In NCS's June 2, 2010 supplement, NCS removed the objection and changed the response
 11 to:

12 **Response to Request for Production No. 8:** None.

13 In the June 17 Order, the Court chastised NCS for these responses and noted that "Plaintiff
 14 is entitled to discover from Defendant whether it sent substantially similar letters to other clients
 15 of Incorp which stated that the recipient's 'current registered agent may be discontinuing its
 16 services' or similar words to that effect." (June 17 Order at 6.) The Court ordered NCS to
 17 supplement its response to this request "by producing copies of any and all letters substantially
 18 similar to the May 28, 2009 letter that were sent to other clients of Plaintiff." (*Id.* at 8.) NCS did
 19 not produce these copies. Rather, it supplemented its response as follows and attached the fifteen-
 20 page Mailing List:

21 **Response to Request for Production No. 8:**

22 Document	Bate No(s):
23 Mailing list of those that were sent the letter in question.	NCS00005-NCS00019

24 Despite NCS's claim, both common sense and Defendants' history of evading the truth
 25 suggest that the Mailing List is not a complete list of those to whom Defendants sent the letters.
 26 Plaintiff and NCS are competing *Nevada* corporations. The list includes only *Georgia* addresses.
 27 (See Schwarz Decl., Ex. A.) Defendants have been given ample opportunity to explain the
 28 specifics of their mailing list, through discovery as well as motions and hearings before this Court,

1 and at no point have they claimed that the letters only went out to a small group of people in
2 Georgia. (*See, e.g.*, NCS's response to Interrogatory No. 5, quoted *supra* in Section III.B.1, where
3 Defendants contend they took a random sampling from "a large database of businesses" but not
4 Georgia businesses.) Throughout the case, Plaintiff has admitted to knowing of the letter sent to
5 Klaus Egert in Georgia. (*See, e.g.*, June 17 Order at 2.) It therefore follows that Defendants pared
6 down their actual mailing list, making sure to include Klaus Egert, in a fraudulent attempt to
7 reduce Plaintiff's damages.

8 If Defendants contend that the Mailing List produced to Plaintiff is not a complete list,
9 then, once again, Defendants have blatantly defied the June 17 Order. If Defendants claim it is
10 complete, then reason suggests they falsified the evidence. Either way, Defendants have violated
11 the entire canon of good faith conduct required of litigants.

12 **C. The Court should sanction Defendants for failing to comply with Court orders and**
13 **for engaging in obstructionist and dilatory behavior.**

14 As detailed above, Defendants have routinely ignored Court orders, refused to participate
15 in the discovery process, refused to respond to Plaintiff's attempts to meet and confer on particular
16 issues and possibly fabricated evidence. Accordingly, Plaintiff requests reimbursement of the
17 attorneys' fees it incurred in bringing this motion as well as any other sanctions as the Court sees
18 fit.

19 Ample authority supports the sanctioning of Defendants. Federal Rule of Civil Procedure
20 37 ("Rule 37") authorizes sanctions for NCS's disobedience of the June 17 Order. Federal Rule of
21 Civil Procedure 16(f)(1)(C) ("Rule 16") authorizes the Court to sanction Defendants for failing to
22 obey a pretrial or scheduling order. Both Rules 16 and 37 permit an award of Plaintiff's
23 attorney's fees in addition to other sanctions, including the construing of evidence in Plaintiff's
24 favor and entry of default judgment. Local Rule 4-1(d) allows sanctions for failure to comply with
25 any order of the Court. Finally, of course, the Court has an inherent power to issue sanctions
26 against parties for willful disobedience of a court order or other bad faith conduct that disrupts
27 litigation. *See, e.g., Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991). The Court's inherent
28 sanctioning power coexists with any other available sanctions. *Id.*

1 **1. The Court should award Plaintiff its attorneys' fees.**

2 Federal Rule of Civil Procedure 37(a)(5)(A) authorizes the Court to award attorneys' fees
3 to a party forced to bring a motion to compel. *See Freeman v. San Diego Ass'n of Realtors*, 322
4 F.3d 1133, 1156 (9th Cir. 2003). If the party disobeys a court's order compelling discovery, "the
5 court *must* order the disobedient party, the attorney advising that party, or both to pay the
6 reasonable expenses, including attorney's fees, caused by the failure." Fed. R. Civ. P. 37(b)(2)(C)
7 (emphasis added).

8 The Court should award Plaintiff the attorneys' fees and costs it incurred in bringing this
9 motion because NCS's continued failure to respond to the written discovery at issue is without
10 substantial justification and made in bad faith. In fact, NCS's refusal to comply with the June 17
11 Order reveals an obvious effort to obstruct and thwart the letter and spirit of the discovery process.
12 Given NCS's behavior, an award of attorneys' fees is appropriate.

13 **3. The Court should also sanction Defendants under Rule 37(b)(2)(A).**

14 Rule 37 permits the Court to direct that matters embraced in the June 17 Order "be taken
15 as established for purposes of the action, as the prevailing party claims." Fed. R. Civ. P.
16 37(b)(2)(A)(i). Similarly, the Rule gives the Court the ability to prohibit Defendants from
17 "supporting or opposing designated claims or defenses, or from introducing designated matters in
18 evidence." Fed. R. Civ. P. 37(b)(2)(A)(ii). Finally, and most drastically, the Court may render
19 default judgment against Defendants. Fed. R. Civ. P. 37(b)(2)(A)(vii). Rule 16 authorizes these
20 same sanctions for Defendants' failure to comply with a scheduling or pretrial order by
21 incorporating Rule 37(b)(2)(A)(i)–(v) by reference. Fed. R. Civ. P. 16(f)(1). Plaintiff asks the
22 Court to sanction Defendants under one of the Rule 37(b) alternatives as the Court sees fit.

23 One option is for the Court to sanction Defendants by construing, in Plaintiff's favor, the
24 issue of how many clients Plaintiff lost as a result of Defendants' defamatory letter. Fed. R. Civ.
25 P. 37(b)(2)(A)(i) and (ii). Such a sanction must relate to the specific issue at stake in the June 17
26 Order. *Ins. Corp. of Ireland, Ltd. V. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 707
27 (1982) (considering former, yet substantially similar, version of Rule 37(b)(2)(A)(i)). Due to
28 Defendants' refusal to provide truthful discovery responses, Plaintiff has been unable to determine

1 how many clients it lost as a result of Defendants' letters. Specifically, Defendants have (1)
2 refused to produce a complete list of recipients of the defamatory letter, (2) refused to provide a
3 meaningful explanation of how it generated the list, and (3) refused to provide financial
4 documents that would permit Plaintiff to investigate any financial benefit to Defendants resulting
5 from the letter. Moreover, Plaintiff has been unable to address these questions via deposition of
6 Defendants and their employees because Defendants have refused to cooperate in their scheduling.
7 For these reasons, the Court should consider taking "as established for purposes of the action" the
8 fact that any client Plaintiff lost between May 29, 2009 and December 31, 2009 was as a direct
9 and proximate result of Defendants' letter regarding Plaintiff.

10 Defendants' production of the Mailing List supports such a sanction. For the reasons
11 described above, Plaintiff believes the Mailing list to be a falsified and an incomplete record of the
12 intended recipients of Defendants' defamatory letter, and the Court is warranted, under Rule
13 37(b), to conclude likewise. *In Prof. Seminar Consultants, Inc. v. Sino Amer. Tech. Exchange*
14 *Council*, 727 F.2d 1470, 1471-73 (9th Cir. 1984), the district court magistrate judge determined
15 that defendants falsified documents produced in response to his order compelling discovery. The
16 court entered default judgment and awarded the plaintiff punitive damages totaling \$400,000. *Id.*
17 The defendants claimed they were entitled to an evidentiary hearing on the documents, but the
18 Ninth Circuit disagreed, holding that the magistrate acted within the discretion granted by Rule
19 37(b). *Id.* Thus, the Court should prohibit Defendants from supporting its defenses or opposing
20 Plaintiff's claims by introducing the Mailing List into evidence as a complete list of the addressees
21 of the defamatory letter. Fed. R. Civ. P. 37(b)(2)(A)(ii).

22 Plaintiff has been substantially prejudiced by Defendants' refusal to answer Plaintiff's
23 written discovery with any substance, refusal to meaningfully participate in the meet and confer
24 process, refusal to comply with the June 17 Order compelling supplemental responses to portions
25 of Plaintiff's written discovery, and evasion of Plaintiff's deposition of key parties and witnesses.
26 Defendants' behavior has caused Plaintiff's discovery dispute with Defendants to drag on for over
27 ten months, has required Plaintiff to file several motions to compel, has necessitated the extension
28 of the discovery deadline on several occasions, and has prevented Plaintiff from completing its

1 depositions before the August 13 deadline. The prejudice to Plaintiff is clear—Defendants’
 2 behavior has prevented Plaintiff from investigating its claims. See, e.g., *Wanderer, supra*, 910
 3 F.2d at 656 (finding the existence of prejudice palpable where “the failures of the defendants to
 4 appear at their depositions, which were compounded by repeated noncompliance with court orders
 5 to produce documents constituted a clear interference with the plaintiffs’ ability to prove the
 6 claims and to obtain a decision in the case.”)

7 As to the issue of less severe alternatives, the Court must decide whether imposition of one
 8 of the lesser sanctions described above would sufficiently convince Defendants to begin litigating
 9 in good faith. See, e.g., *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 482 F.3d
 10 1091, 1096 (9th Cir. 2007) (“The sub-parts of [this] factor are whether the court has considered
 11 lesser sanctions, whether it tried them, and whether it warned the recalcitrant party about the
 12 possibility of case-dispositive sanctions.”) Plaintiff does not believe that it would.

13 V. CONCLUSION

14 For all of the reasons set forth above, the Court should grant Plaintiff’s Motion (1) to
 15 reopen discovery, (2) to modify the dates listed in its June 17, 2010 scheduling order, (3) to
 16 compel further supplemental responses from NCS to Plaintiff’s interrogatories and requests for
 17 production of documents pursuant to the June 17 Order, and (4) to sanction Defendants by
 18 awarding Plaintiff its fees and costs in bringing this Motion and by taking any other of the Rule
 19 37(b) sanctioning measures that the Court deems fit.

20
 21 DATED: September __, 2010

GORDON SILVER

22 By: _____

23 JOEL Z. SCHWARZ
 24 Nevada Bar No. 9181
 25 BRADLEY J. RICHARDSON
 26 Nevada Bar No. 1159
 3960 Howard Hughes Pkwy., 9th Floor
 Las Vegas, Nevada 89169
 Tel: (702) 796-5555

27 Attorneys for Plaintiff

Gordon Silver

Attorneys and Counselors at Law

3960 Howard Hughes Parkway, Ninth Floor, Las Vegas, Nevada 89169.5978
T: 702.796.5555 • F: 702.369.2666 • www.gordonsilver.com

Joel Z. Schwarz, Esq.
Email: jschwarz@gordonsilver.com

September 27, 2010

VIA EMAIL: jjlamadrid@gmail.com
and U.S. MAIL

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, Nevada 89147

Re: Incorp Services, Inc. v. Nevada Corporate Services, Inc.
Case No. 09-cv-1300-RCJ-GWF
Our File No.: 102162-001.06

Dear Joslyn:

It has come to our attention that false and defamatory statements were published about Incorp Services, Inc. ("Incorp") during the week of September 20th. Incorp intends to pursue full legal recourse against the person(s) responsible for this misconduct. To the extent you, your clients, or their agents possess any documents or things regarding any statements about Incorp made or published during the week of September 20th, please be advised that you are under an obligation to preserve such documents and things.

If you have any questions about this issue, please do not hesitate to contact me at (702) 796-5555.

Sincerely,

GORDON SILVER




JOEL Z. SCHWARZ

Joslyn J. LaMadrid, Esq.
Post Office Box 2743 Carson City, NV 89702
Contact No. (702) 232-4786
Email: jjlamadrid@gmail.com

SCANNED**FAX COVER SHEET**

TO: Joel Schwarz	FROM: Joslyn LaMadrid
DATE: 10/08/2010	NO. OF PAGES: 1
FAX NO.: (702)369-2666	PHONE: (702)796-5555
FILE NO:	RE: Incorpor. V. NCS et. al

NOTES: Please call with any questions. Thanks. Again, my temporary # is 542-3396. Thank you for your prompt attention to this matter. 

CONFIDENTIAL INFORMATION

This facsimile transmission is intended only for the use of the person(s) to whom, it is addressed and contains information which may be confidential or privileged and exempt from disclosure under applicable law. If you are not a person to whom this e-mail is addressed, or an agent authorized by such a person to receive this e-mail, you are hereby notified that any examination, copying, distribution or other unauthorized use of this document is prohibited. If you have received this facsimile in error, please contact the Law Offices of Joslyn LaMadrid at (702)232-4786 immediately.

FEDERAL TAX ADVICE DISCLAIMER

We are required by U.S. Treasury Regulations to inform you that, to the extent this message includes any federal tax advice, this message is not intended or written by the sender to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

Joslyn J. LaMadrid, Esq.
6600 West Charleston, Suite 117, Las Vegas Nevada 89146
Contact No. (702) 232-4786
Email: jjlamadrid@gmail.com

August 20, 2010

Joel Z. Schwarz
Gordon & Silver
3960 Howard Hughes Pkwy
Ninth Floor
Las Vegas, NV 89169

VIA FAX (702)794-4421

Re: My Client: Nevada Corporate Services, Inc.

Mr. Schwarz:

This letter is in response to your correspondence dated September 27, 2010, in which you allege defamatory statements were published during the week of September 20th. First, I am not sure what statements you are referring to. Secondly, I am assuming you are referring to statements made September 20th of this year, of which is ambiguous. Please provide in order for me to better assess the situation for me to advise my clients

Should you have any questions, please do not hesitate to contact the undersigned in order to discuss. Thank you in advance for your prompt attention to this matter.

Sincerely,



Joslyn J. LaMadrid, Esq.

Gordon Silver

Attorneys and Counselors at Law

SCANNED

Facsimile Transmittal Sheet

Date: December 9, 2010
To: Joslyn LaMadrid, Esq.
Facsimile No.: (702) 658-9388
Telephone No.:
From: Joel Z. Schwarz, Esq.
File No.: 102162-001.06
Subject: Incorp v. NCS, Case No. 2:09-cv-01300-RCJ-GWF
Number of pages
incl. cover page: 16

DEC 09 2010



☒ Please see attached ☐ Per your request ☐ For your review
☐ Please review, sign and return ☐ Please acknowledge receipt ☐ For your information or records

Message: Attached, please find the following:

Amended Notice of Deposition of Richard Fritzler
Amended Notice of Deposition of Michelle Perry
Amended Notice of Deposition of Kayla Korbalee
Amended Notice of Deposition of FRCP 30(b)(6) Representative of NCS

The following pages are confidential communications intended only for the person or persons named above. If you are not that person, or the employee or agent responsible for the delivery of the following information, you are hereby notified that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us by mail. We will gladly reimburse your telephone and postage expenses.

102162-001.06/1088573

3960 Howard Hughes Parkway, Ninth Floor
Las Vegas, Nevada 89169-5978

T: 702.796.5555 • F: 702.369.2666 • www.gordonsilver.com

1 **NDEP**
GORDON SILVER
2 BRADLEY J. RICHARDSON
Nevada Bar No. 1159
3 Email: brichardson@gordonsilver.com
JOEL Z. SCHWARZ
4 Nevada Bar No. 9181
Email: jschwarz@gordonsilver.com
5 3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, Nevada 89169
6 Tel: (702) 796-5555
Fax: (702) 369-2666
7 Attorneys for Plaintiff Incorp Services, Inc.

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 INCORP SERVICES, INC., a Nevada
12 corporation,

13 Plaintiff,

14 vs.

15 NEVADA CORPORATE SERVICES, INC., a
Nevada corporation, RICHARD FRITZLER, an
16 individual, and DOES 1-10, inclusive,

17 Defendant.

Case No. 2:09-cv-01300-RCJ-GWF

**AMENDED NOTICE OF DEPOSITION
OF FRCP 30(b)(6) REPRESENTATIVE
OF NEVADA CORPORATE SERVICES,
INC.**

18
19 TO ALL PARTIES IN INTEREST:

20 PLEASE TAKE NOTICE that on the 19th of January, 2011, at 1:00 p.m., at the law offices
21 of Gordon Silver, 3960 Howard Hughes Parkway, 9th Floor, Las Vegas, NV 89169, Plaintiff and
22 Counter-Defendant, Incorp Services, Inc. ("Incorp"), by and through counsel, the law firm of
23 Gordon Silver, will take the stenographic deposition of the FRCP 30(b)(6) Representative of
24 Defendant Nevada Corporate Services, Inc. upon oral examination pursuant to Federal Rules of
25 Civil Procedure ("FRCP") 26 and 30, before a Notary Public, or before some other officer
26 authorized by law to administer oaths.

27 ...

28 ...

102162-001.06/1088355

1 The deponent shall designate one or more officers, directors, or managing agents, or other
2 persons who consent to testify on its behalf concerning matters described in Attachment A.

3 The oral examination will continue from day to day until completed. You are invited to
4 attend and cross-examine.

5 DATED this 4th day of December, 2010.

6 GORDON SILVER

7
8 
BRADLEY J. RICHARDSON

9 Nevada Bar No. 1159

10 JOEL Z. SCHWARZ

11 Nevada Bar No. 9181

12 Nevada Bar No.

13 3960 Howard Hughes Pkwy., 9th Floor

14 Las Vegas, Nevada 89169

15 (702) 796-5555

16 Attorneys for Plaintiff
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT A

Pursuant to Federal Rule of Civil Procedure 30(b)(6), Defendant Nevada Corporate Services, Inc. ("Defendant") must designate one or more officers, directors, or managing agents to testify as to the information known or reasonably available to Plaintiff Incorp Services, Inc. on the following topics.

DEFINITIONS

1. "YOU" "YOU" and "YOUR," as used herein mean and include Nevada Corporate Services, Inc., and all persons acting on its behalf, including without limitation all past or present officers, directors, employees, representatives, consultants, partners, independent contractors, agents and attorneys, as well as any past or present predecessor, successor, parent, subsidiary, division or affiliate thereof, whether domestic or foreign and whether owned in whole or in part.

2. "FRITZLER" as used herein means and includes Richard Fritzler, a party to this litigation, and Richard Fritzler's employees, representatives, consultants, partners, independent contractors, agents and attorneys, and/or ANY PERSON working on Richard Fritzler's behalf.

3. "THIRD PARTY" as used herein means and includes ANY PERSON other than YOU or FRITZLER, including, without limitation and in the broadest sense possible, customers, employees, or vendors.

4. "PERSON" or "PERSONS" means and includes ANY individual, corporation, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, limited liability corporation (LLC), doing business as (DBA), or other legal, business or governmental entity.

5. "ANY" and "ALL" shall both be interpreted in the most inclusive light, and shall include "ANY AND ALL."

6. "DOCUMENT" and "DOCUMENTS" shall have the meaning ascribed to it by Fed. R. Civ. Proc. R. 34 and include without limitation the original and each non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic or other matter, in whatever form, in any medium, whether in final or draft.

7. "EACH" means each and every.

1 8. As used herein, the singular form of a noun or pronoun will include within its
2 meaning the plural form of a noun or pronoun, and vice versa: the use of the masculine form of a
3 pronoun will include within its meaning the feminine form of the pronoun, and vice versa; the use
4 of the tense of any verb will include all other tenses of the verb so used; in the use of "and" will
5 include "or" and vice versa.

6 **TOPICS**

7 1. YOUR collection of DOCUMENTS undertaken to satisfy YOUR discovery
8 obligations.

9 2. YOUR preparation of responses to Plaintiff's First Set of Interrogatories.

10 3. YOUR preparation of responses to Plaintiff's First Set of Requests for Admission.

11 4. YOUR preparation of responses to Plaintiff's First Set of Requests for Production.

12 5. YOUR corporate structure, including YOUR relationship with ANY sibling
13 companies or ANY predecessors.

14 6. YOUR revenues and profits for the past three years.

15 7. YOUR advertising and/or promotion through direct mailings and letters.

16 8. The contents of ALL of YOUR promotional direct mailings and letters sent
17 between April 2009 and June 2009.

18 9. The recipients of ALL of YOUR promotional direct mailings and letters sent
19 between April 2009 and June 2009.

20 10. ALL inquiries and/or responses YOU received to ALL letters in response to YOUR
21 promotional direct mailings and letters sent between April 2009 and June 2009.

22 11. YOUR creation and sending of the letter attached hereto as Exhibit A.

23 12. The facts supporting the statements contained in the letter attached hereto as
24 Exhibit A.

25 13. YOUR creation and sending of ALL letters substantially similar to the letter
26 attached hereto as Exhibit A.

27 14. The recipients of ALL letters substantially similar to the letter attached hereto as
28 Exhibit A.

1 15. ALL inquiries and/or responses YOU received to letters substantially similar to the
2 letter attached hereto as Exhibit A.

3 16. YOUR creation and sending of ALL letters that contained the statement, "current
4 registered agent may be discontinuing its services."

5 17. The recipients of ALL letters YOU created and/or sent that contained the
6 statement, "current registered agent may be discontinuing its services."

7 18. ALL inquiries and/or responses YOU received to ALL letters YOU created and/or
8 sent that contained the statement, "current registered agent may be discontinuing its services."

9 19. YOUR creation and sending of ALL letters that contained the statement,
10 "Registered agents throughout the state are closing, leaving their clients vulnerable and at risk."

11 20. The recipients of ALL letters YOU created and/or sent that contained the
12 statement, "Registered agents throughout the state are closing, leaving their clients vulnerable and
13 at risk."

14 21. ALL inquiries and/or responses YOU received to ALL letters YOU created and/or
15 sent that contained the statement, "Registered agents throughout the state are closing, leaving their
16 clients vulnerable and at risk."

17 22. The facts supporting YOUR allegations in YOUR Answer to the First Amended
18 Complaint.

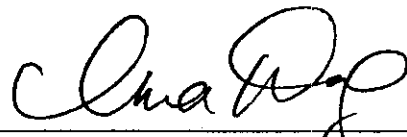
19 23. The facts supporting YOUR allegations in YOUR First through Nineteenth
20 Affirmative Defenses.

CERTIFICATE OF SERVICE

The undersigned, an employee of Gordon Silver, hereby certifies that on the 9th day of December, 2010, she served a copy of the **Amended Notice of Deposition of the FRCP (30)(b)(6) Representative of Nevada Corporate Services, Inc.**, by facsimile, and by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope addressed to:

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, Nevada 89147
Fax: (702) 658-9388

Attorney for Defendants



Anna Dang, an employee of
GORDON SILVER

1 **NDEP**
2 GORDON SILVER
3 BRADLEY J. RICHARDSON
4 Nevada Bar No. 1159
5 Email: brichardson@gordonsilver.com
6 JOEL Z. SCHWARZ
7 Nevada Bar No. 9181
8 Email: jschwarz@gordonsilver.com
9 3960 Howard Hughes Pkwy., 9th Floor
10 Las Vegas, Nevada 89169
11 Tel: (702) 796-5555
12 Fax: (702) 369-2666
13 Attorneys for Plaintiff Incorp Services, Inc.

8
9
10
11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

11 INCORP SERVICES, INC., a Nevada
12 corporation,

13 Plaintiff,

14 vs.

15 NEVADA CORPORATE SERVICES, INC., a
16 Nevada corporation, RICHARD FRITZLER, an
17 individual, and DOES 1-10, inclusive,

18 Defendant.

Case No. 2:09-cv-01300-RCJ-GWF

**AMENDED NOTICE OF DEPOSITION
OF KAYLA KORBALEE**

19 TO ALL PARTIES IN INTEREST:

20 PLEASE TAKE NOTICE that on the 18th of January, 2011, at 9:00 a.m., at the law offices
21 of Gordon Silver, 3960 Howard Hughes Parkway, 9th Floor, Las Vegas, NV 89169, Plaintiff and
22 Counter-Defendant, Incorp Services, Inc. ("Incorp"), by and through counsel, the law firm of
23 Gordon Silver, will take the stenographic deposition of Kayla Korbalee upon oral examination
24 pursuant to Federal Rules of Civil Procedure ("FRCP") 26 and 30, before a Notary Public, or
25 before some other officer authorized by law to administer oaths.

26 ...

27 ...

28 ...

102162-001.06/1088354

1 The oral examination will continue from day to day until completed. You are invited to
2 attend and cross-examine.

3 DATED this 9th day of December, 2010.

4 GORDON SILVER

5 

6 BRADLEY J. RICHARDSON

7 Nevada Bar No. 1159

8 JOEL Z. SCHWARZ

9 Nevada Bar No. 9181

10 Nevada Bar No.

11 3960 Howard Hughes Pkwy., 9th Floor

12 Las Vegas, Nevada 89169

13 (702) 796-5555

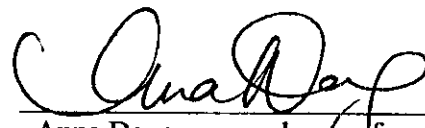
14 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned, an employee of Gordon Silver, hereby certifies that on the 7th day of December, 2010, she served a copy of the **Amended Notice of Deposition of Kayla Korbalee**, by facsimile, and by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope addressed to:

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, Nevada 89147
Fax: (702) 658-9388

Attorney for Defendants



Anna Dang, an employee of
GORDON SILVER

1 **NDEP**
2 **GORDON SILVER**
3 **BRADLEY J. RICHARDSON**
4 Nevada Bar No. 1159
5 Email: brichardson@gordonsilver.com
6 **JOEL Z. SCHWARZ**
7 Nevada Bar No. 9181
8 Email: jschwarz@gordonsilver.com
9 3960 Howard Hughes Pkwy., 9th Floor
10 Las Vegas, Nevada 89169
11 Tel: (702) 796-5555
12 Fax: (702) 369-2666
13 Attorneys for Plaintiff Incorp Services, Inc.

8
9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

11 **INCorp SERVICES, INC.,** a Nevada
12 corporation,

13 Plaintiff,

14 vs.

15 **NEVADA CORPORATE SERVICES, INC.,** a
16 Nevada corporation, **RICHARD FRITZLER,** an
17 individual, and **DOES 1-10,** inclusive,

18 Defendant.

Case No. 2:09-cv-01300-RCJ-GWF

**AMENDED NOTICE OF DEPOSITION
OF DEFENDANT RICHARD
FRITZLER**

19 **TO ALL PARTIES IN INTEREST:**

20 PLEASE TAKE NOTICE that on the 19th of January, 2011, at 9:00 a.m., at the law offices
21 of Gordon Silver, 3960 Howard Hughes Parkway, 9th Floor, Las Vegas, NV 89169, Plaintiff and
22 Counter-Defendant, Incorp Services, Inc. ("Incorp"), by and through counsel, the law firm of
23 Gordon Silver, will take the stenographic deposition of Defendant Richard Fritzler upon oral
24 examination pursuant to Federal Rules of Civil Procedure ("FRCP") 26 and 30, before a Notary
25 Public, or before some other officer authorized by law to administer oaths.

26 ...

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28 ...

102162-001.06/1088353

1 The oral examination will continue from day to day until completed. You are invited to
2 attend and cross-examine.

3 DATED this 7 day of December, 2010.

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GORDON SILVER



BRADLEY J. RICHARDSON
Nevada Bar No. 1159
JOEL Z. SCHWARZ
Nevada Bar No. 9181
Nevada Bar No.
3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, Nevada 89169
(702) 796-5555
Attorneys for Plaintiff

1 **NDEP**
2 GORDON SILVER
3 BRADLEY J. RICHARDSON
4 Nevada Bar No. 1159
5 Email: brichardson@gordonsilver.com
6 JOEL Z. SCHWARZ
7 Nevada Bar No. 9181
8 Email: jschwarz@gordonsilver.com
9 3950 Howard Hughes Pkwy., 9th Floor
10 Las Vegas, Nevada 89169
11 Tel: (702) 796-5555
12 Fax: (702) 369-2666
13 Attorneys for Plaintiff Incorp Services, Inc.

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 INCORP SERVICES, INC., a Nevada
12 corporation,

13 Plaintiff,

14 vs.

15 NEVADA CORPORATE SERVICES, INC., a
16 Nevada corporation, RICHARD FRITZLER, an
17 individual, and DOES 1-10, inclusive,

18 Defendant.

Case No. 2:09-cv-01300-RCJ-GWF

**AMENDED NOTICE OF DEPOSITION
OF MICHELLE PERRY**

19 TO ALL PARTIES IN INTEREST:

20 PLEASE TAKE NOTICE that on the 18th of January, 2011, at 1:00 p.m., at the law offices
21 of Gordon Silver, 3960 Howard Hughes Parkway, 9th Floor, Las Vegas, NV 89169, Plaintiff and
22 Counter-Defendant, Incorp Services, Inc. ("Incorp"), by and through counsel, the law firm of
23 Gordon Silver, will take the stenographic deposition of Michelle Perry upon oral examination
24 pursuant to Federal Rules of Civil Procedure ("FRCP") 26 and 30, before a Notary Public, or
25 before some other officer authorized by law to administer oaths.

26 ...


27 ...

28 ...

1 The oral examination will continue from day to day until completed. You are invited to
2 attend and cross-examine.

3 DATED this 2nd day of December, 2010.

4 GORDON SILVER

5 
6 _____
7 BRADLEY J. RICHARDSON
8 Nevada Bar No. 1159
9 JOEL Z. SCHWARZ
10 Nevada Bar No. 9181
11 Nevada Bar No.
12 3960 Howard Hughes Pkwy., 9th Floor
13 Las Vegas, Nevada 89169
14 (702) 796-5555
15 Attorneys for Plaintiff
16
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JZS Joel Z. Schwarz

From: Anna Dang
Sent: Monday, December 13, 2010 9:59 AM
To: 'jjlamadrid@gmail.com'
Cc: JZS Joel Z. Schwarz
Subject: Incorp v. NCS
Attachments: Letter to Joslyn LaMadrid.pdf

Correspondence dated December 13, 2010 is attached.

-Anna Dang
Assistant to Joel Z. Schwarz, Esq.

6/9/2011

Gordon Silver

Attorneys and Counselors at Law

December 13, 2010

VIA EMAIL: jilamadrid@gmail.com
and U.S. MAIL

Joslyn LaMadrid, Esq.
6600 West Charleston
Suite 117
Las Vegas, Nevada 89147

Re: Incorp Services, Inc. v. Nevada Corporate Services, Inc.
Case No. 09-cv-1300-RCJ-GWF

Dear Joslyn:

This letter serves to continue the meet-and-confer process regarding Defendants Nevada Corporate Services, Inc. and Richard Fritzler (collectively, "Defendants")' failure to supplement their responses to Plaintiff's First Set of Interrogatories and Requests for Production (the "Requests") and to produce documents sufficiently responsive to those requests.

As you know, the Court issued an order on November 17, 2010 (the "November 17th Order") after hearing Plaintiff's Motion to Compel Production of Documents and Further Responses to Interrogatories, and Motion for Sanctions. The November 17th Order directed Defendants to fully respond to the Requests. Specifically, Defendants must provide supplemental discovery responses and responsive documents, including but not limited to: 1) the complete list of recipients of the advertisement letter, 2) Nevada Corporate Services, Inc. ("NCS")'s corporate formation documents, 3) its fictitious business name filings, 4) its business licenses, 5) its current list of officers and/or directors, 6) annual financial statements, 7) NCS's 2006-2009 federal income tax returns, and 8) responses to Defendants' defamatory comments about its competitors.

Despite the Court's instruction, we have not received any supplemental responses from you. Please prepare and serve responses and responsive documents to the Requests by **December 17, 2010**. It is our hope to resolve these issues without involving the Court yet again. However, almost a month has passed since the November 17th Order and Defendants' continued non-compliance to the Court's orders will leave Plaintiff with no choice but to seek Court relief.

Sincerely,

GORDON SILVER



JOEL Z. SCHWARZ

JZS Joel Z. Schwarz

From: Anna Dang
Sent: Thursday, December 30, 2010 11:08 AM
To: 'jjlamadrid@gmail.com'
Cc: JZS Joel Z. Schwarz
Subject: Incorp v. NCS
Attachments: Letter to Joslyn LaMadrid.pdf

Please attached see correspondence dated December 30, 2010.

-Anna Dang
Assistant to Joel Z. Schwarz, Esq.

6/9/2011

Gordon Silver

Attorneys and Counselors at Law

December 30, 2010

VIA E-MAIL jjlamadrid@gmail.com

AND FIRST CLASS MAIL

Joslyn LaMadrid, Esq.
6600 West Charleston
Suite 117
Las Vegas, Nevada 89146

Re: Incorp Services, Inc. v. Nevada Corporate Services, Inc.;
Case No. 09-cv-1300-RCJ-GWF

Dear Joslyn:

I am writing, once again, in an effort to meet and confer regarding Defendants Nevada Corporate Services, Inc. and Richard Fritzler (collectively, "Defendants")' failure to supplement their responses to Plaintiff's First Set of Interrogatories and Requests for Production (the "Requests") and to produce documents sufficiently responsive to those requests.

As outlined in my letter of December 13, 2010, the Court has ordered Defendants to provide supplemental discovery responses and responsive documents, as outlined in my letter. As you also know, we have scheduled the deposition of Defendants and certain of their employees for January 19 and 20, 2011. To date, we have received no response to my December 13 letter and no supplemental discovery responses or responsive documents from Defendants. Given the history of this case, we are also unsure whether any of the deponents plan on appearing at their depositions next month. Of course, the depositions will be futile if we do not receive the Court-ordered supplemental discovery responses and responsive documents in advance.

This is our final request. Please prepare and serve supplemental discovery responses and responsive documents to the Requests by January 7, 2010. By that same date, please also advise as to the deponents' appearance at their upcoming depositions. If we have not received the discovery responses and have not heard from you regarding the depositions by that date, we will take the depositions off calendar and seek further relief from the Court.

Sincerely,

GORDON SILVER



JOEL Z. SCHWARZ

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Tuesday, December 28, 2010 11:18 AM
To: JZS Joel Z. Schwarz
Subject: Depo Schedules

Would you mind forwarding these to me again?

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jlamadrid@gmail.com]
Sent: Thursday, December 30, 2010 11:24 AM
To: Anna Dang
Subject: Re: Incorporation v. NCS

I did not receive the correspondence dated December 13, 2010. Please re-send. Thanks.

On Thu, Dec 30, 2010 at 1:07 PM, Anna Dang <ADang@gordonsilver.com> wrote:
Please attached see correspondence dated December 30, 2010.

-Anna Dang
Assistant to Joel Z. Schwarz, Esq.

Anna Dang

Legal Assistant
Gordon Silver
3960 Howard Hughes Pkwy.
Ninth Floor
Las Vegas, NV 89169
Tel: 702.796.5555
Fax: 702.369.2666
E-mail: ADang@GordonSilver.com



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--
Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

6/9/2011

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JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Wednesday, January 05, 2011 12:57 PM
To: JZS Joel Z. Schwarz
Subject: Fwd: Meeting

----- Forwarded message -----

From: Joslyn LaMadrid <jjlamadrid@gmail.com>
Date: Wed, Jan 5, 2011 at 2:56 PM
Subject: Meeting
To: jzs@gordonsilve.com

Please let me know when you are available to discuss the additional documents you would like. Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

6/9/2011

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jlamadrid@gmail.com]
Sent: Monday, January 10, 2011 12:10 PM
To: JZS Joel Z. Schwarz
Subject: Re: Meeting

Joel,

Thanks for letting me know my mailbox was full. I have forwarded the list of requested documents to my client. Just to let you know Kayla no longer works for my client, and we are unaware of a forwarding location for her. Additionally, Michelle Perry is not employed nor has she even been, by NCS. Therefore, the depositions on the 18th may be irrelevant. Thanks.

On Mon, Jan 10, 2011 at 11:49 AM, JZS Joel Z. Schwarz <JZS@gordonsilver.com> wrote:
Joslyn,

I tried calling you, but I was sent to a voicemail box which the message says is full. Also, the number you have on file with the bar (702-658-8080) does not appear to be for your office. In any event, here is the list of the documents the Court has ordered your clients to produce:

The complete list of recipients of the advertisement letter

NCS's corporate formation documents

NCS's fictitious business name filings

NCS's business licenses

A current list of NCS's officers and/or directors

NCS's annual financial statements

NCS's 2006–2009 full federal tax returns

Copies of all letters NCS sent to Incorp clients

Any responses NCS received to derogatory comments about its competitors

The Court has also ordered that your clients provide supplemental responses to Interrogatories Nos. 4 (identify every intended recipient of the Letters) and 5 (explain how the list of recipients was created).

These documents/Supplemental responses need to be received by the end of this week, so that we have them in advance of next week's (continued) depositions:

Jan. 18 at 9:00 a.m. – Kayla Korbalee

Jan. 18 at 1:00 p.m. — Michelle Perry

6/9/2011

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--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147

6/9/2011

(702)232-4786

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Thursday, January 13, 2011 4:10 PM
To: JZS Joel Z. Schwarz
Subject: RE: Meeting

You will have all the information for the NCS people. I told you to give me a couple days to get it together. I am not sure if you properly gave notice to everyone other than Richard and PMK for NCS. If you try and seek court relief, you will need to show proper service.

Sent from my Palm Pixi on the Now Network from Sprint

On Jan 13, 2011 3:52 PM, JZS Joel Z. Schwarz <JZS@gordonsilver.com> wrote:

Joslyn,

We had hoped to receive the requested documents by today. Because these documents are central to this case, it would be meaningless for Plaintiff to move forward with depositions without them. At this juncture, Plaintiff is left with no choice but to take the depositions off calendar and seek Court relief.

Joel Schwarz, Esq.
Gordon Silver
3960 Howard Hughes Pkwy.
Ninth Floor
Las Vegas, NV 89169
Tel: 702.796.5555
Fax: 702.369.2666
E-mail: JZS@GORDONSILVER.com

Gordon Silver

Attorneys and Counselors at Law

From: Joslyn LaMadrid [mailto:jjlamadrid@gmail.com]
Sent: Monday, January 10, 2011 12:10 PM
To: JZS Joel Z. Schwarz
Subject: Re: Meeting

6/9/2011

Joel,

Thanks for letting me know my mailbox was full. I have forwarded the list of requested documents to my client. Just to let you know Kayla no longer works for my client, and we are unaware of a forwarding location for her. Additionally, Michelle Perry is not employed nor has she even been, by NCS. Therefore, the depositions on the 18th may be irrelevant. Thanks.

On Mon, Jan 10, 2011 at 11:49 AM, JZS Joel Z. Schwarz
<JZS@gordonsilver.com> wrote:

Joslyn,

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The complete list of recipients of the advertisement letter

NCS's corporate formation documents

NCS's fictitious business name filings

NCS's business licenses

A current list of NCS's officers and/or directors

NCS's annual financial statements

NCS's 2006–2009 full federal tax returns

Copies of all letters NCS sent to Incorp clients

Any responses NCS received to derogatory comments about its competitors

The Court has also ordered that your clients provide supplemental responses to Interrogatories Nos. 4 (identify every intended recipient of the Letters) and 5 (explain how the list of recipients was created).

These documents/Supplemental responses need to be received by the end of this week, so that we have them in advance of next week's (continued) depositions:

Jan. 18 at 9:00 a.m. – Kayla Korbalee

Jan. 18 at 1:00 p.m. — Michelle Perry

Jan. 20 at 9:00 a.m. – Richard Fritzler

Jan. 20 at 1:00 p.m. – NCS 30(b)(6) designee

Please call me to confirm that your clients will be producing documents and appearing for their

6/9/2011

scheduled depositions. Thank you for your attention to this matter.

Joel Schwarz, Esq.
Gordon Silver
3960 Howard Hughes Pkwy.
Ninth Floor
Las Vegas, NV 89169
Tel: 702.796.5555
Fax: 702.369.2666
E-mail: JZS@GORDONSILVER.com



From: Joslyn LaMadrid [mailto:jjlamadrid@gmail.com]
Sent: Wednesday, January 05, 2011 12:57 PM
To: JZS Joel Z. Schwarz
Subject: Fwd: Meeting

----- Forwarded message -----

From: **Joslyn LaMadrid** <jjlamadrid@gmail.com>
Date: Wed, Jan 5, 2011 at 2:56 PM
Subject: Meeting
To: jzs@gordonsilve.com

Please let me know when you are available to discuss the additional documents you would like. Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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Regards,

Joslyn LaMadrid, Esq.
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--

Regards,

6/9/2011

Joslyn LaMadrid, Esq.
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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Thursday, January 20, 2011 11:49 AM
To: JZS Joel Z. Schwarz
Subject: Motion

I am unable to retrieve your most recent filings (Friday and Tuesday). Would you please forward the same to me? Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Tuesday, February 01, 2011 10:11 AM
To: JZS Joel Z. Schwarz
Subject: Phone

I have tried calling you twice. Please call me at 202-4781. Thanks

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Tuesday, February 01, 2011 10:21 AM
To: JZS Joel Z. Schwarz
Subject: Re: Opposition

Thanks. I will send it over.

On Tue, Feb 1, 2011 at 10:12 AM, JZS Joel Z. Schwarz <JZS@gordonsilver.com> wrote:
Joslyn,

Pursuant to the Order of the Court (see attached), the Opposition was due yesterday. With that being said, we will stipulate to an extension of the Opposition deadline to this Friday, February 4, 2011 and an extension of our deadline for a reply to 11 days after the filing of the Opposition, pursuant to LR 7-2(c). If this is acceptable to you, please prepare a Stipulation and Order to that effect and I will sign it.

Joel Schwarz, Esq.
Gordon Silver
3960 Howard Hughes Pkwy.
Ninth Floor
Las Vegas, NV 89169
Tel: 702.796.5555
Fax: 702.369.2666
E-mail: JZS@GORDONSILVER.com



From: Joslyn LaMadrid [mailto:jjlamadrid@gmail.com]
Sent: Tuesday, February 01, 2011 6:23 AM
To: JZS Joel Z. Schwarz
Subject: Opposition

Joel,

I left you a message yesterday. Our Opposition is due Wednesday, and I am wondering if I could get a couple day extension. I am also supplementing the discovery you requested, however some of it just doesn't exist. My phone is smashed, so you can reach me at 702-202-4781. Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

6/9/2011

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Regards,

Joslyn LaMadrid, Esq.
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JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jlamadrid@gmail.com]
Sent: Saturday, February 05, 2011 11:49 AM
To: JZS Joel Z. Schwarz
Subject: Response
Attachments: Opposition_to_Motion_to_Dismiss_and_Sanctions__2_.pdf

I tried my pacer login, and it doesnt work, so i am sending you a courtesy copy, and have to wait until monday to retrieve it. Thanks for r understanding, and I hope your baby is doing well. Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Monday, March 07, 2011 9:22 AM
To: JZS Joel Z. Schwarz
Subject: Motion

I am unable to access the calendar. Has this been set for a hearing date yet? We are supplying the 3rd and 4th supplements to discovery, and can put the depositions back on calendar. Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jjlamadrid@gmail.com]
Sent: Monday, March 07, 2011 2:17 PM
To: JZS Joel Z. Schwarz
Subject: Re: Motion

Thanks, I will check with my client. I am able to access the calendar at my office, but my home office has different protections, and as such I am unable to access it. I was just touching base this morning as it was on my mind. Thanks.

On Mon, Mar 7, 2011 at 1:18 PM, JZS Joel Z. Schwarz <JZS@gordonsilver.com> wrote:
 Joslyn—

To my knowledge, no hearing date has been set on our motion for terminating sanctions and default judgment. The discovery deadline was January 31, 2011 and the joint pretrial order is due in roughly three weeks. Our client has already expended substantial time and money to extend the discovery period for purposes of obtaining the supplemental discovery and taking the depositions and is not in the position to do it again. Taking depositions at this late stage would be wholly inappropriate and unduly prejudicial to our client. As such, we do not plan on putting the depositions back on calendar at this time and will instead wait for the Court's ruling on the pending motion.

You have indicated several times that you are unable to access the Court's electronic filing system. Are you aware that you can also view the docket through PACER? Either way, please confirm that you have received and reviewed the attached Order on our motion for attorneys' fees, and that we can expect payment from your clients this Thursday. If you need wiring instructions, I am happy to provide them to you.

Joel Schwarz, Esq.
 Gordon Silver
 3960 Howard Hughes Pkwy.
 Ninth Floor
 Las Vegas, NV 89169
 Tel: 702.796.5555
 Fax: 702.369.2666
 E-mail: JZS@GORDONSILVER.com

Gordon Silver
 Attorneys and Counselors at Law

From: Joslyn LaMadrid [mailto:jjlamadrid@gmail.com]
Sent: Monday, March 07, 2011 9:22 AM
To: JZS Joel Z. Schwarz
Subject: Motion

I am unable to access the calendar. Has this been set for a hearing date yet? We are supplying the 3rd and 4th supplements to discovery, and can put the depositions back on calendar. Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
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Regards,

Joslyn LaMadrid, Esq.
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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jlamadrid@gmail.com]
Sent: Tuesday, April 12, 2011 9:42 AM
To: JZS Joel Z. Schwarz
Subject: Hearing

Is there still not a hearing date? Also, I wanted to advise you we have updated the discovery and will be filing supplemental answers. Thanks.

--

Regards,

Joslyn LaMadrid, Esq.
6600 West Charleston, Suite 117
Las Vegas, NV 89147
(702)232-4786

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6/9/2011

JZS Joel Z. Schwarz

From: Joslyn LaMadrid [jlamadrid@gmail.com]
Sent: Thursday, June 09, 2011 12:02 PM
To: JZS Joel Z. Schwarz
Subject: Re: Call me asap!

I am in Chicago. It is an unfortunate situation, as I did what I could with what I had been given. I am not sure where they are coming from, but I guess everyone wants to blame the attorney. I alerted the 3 months ago I was withdrawing as counsel due to a family emergency. My father recently passed away. I will try calling you before the hearing to discuss this, but thank you for the heads up.

Sent from my Palm Pre on the Now Network from Sprint

On Jun 9, 2011 11:46 AM, JZS Joel Z. Schwarz <JZS@gordonsilver.com> wrote:

Direct line: 702-992-1823
Cell: 702-332-4837

About NCS/Fritzler. They filed a supplement this morning that is blaming everything on you. Hearing is at 1:30 this afternoon. Figured you would want to defend yourself.

Joel Schwarz, Esq.
Gordon Silver
3960 Howard Hughes Pkwy.
Ninth Floor
Las Vegas, NV 89169
Tel: 702.796.5555
Fax: 702.369.2666
E-mail: JZS@GORDONSILVER.com

Gordon Silver
Attorneys and Counselors at Law

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